



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Hon. Bart Ford, Administrator  
Texas Liquor Control Board  
Austin, Texas

Dear Sir:

Opinion No. O-1253

Re: Expense account of Mr. Virgil  
Pope, employee, covering period  
during which Mr. Pope was con-  
fined to hospital immediately  
following accident May 19, 1937.

We quote herein from your letter of August 7th  
containing a request for an opinion from this department  
as follows:

"On May 19, 1937, Mr. Virgil Pope, an  
employee of the Texas Liquor Control Board,  
submitted an expense account in the sum of  
\$41.80, which was refused by the Comptroller  
by reason of the fact that the State had no  
authority to pay for hospitalization of its  
employees.

"Mr. Pope, while stationed at Dallas,  
Texas, was ordered to Fort Worth on official  
business. While in Fort Worth on business  
he was in an automobile accident, which caus-  
ed him to remain in the hospital some ten or  
twelve days in Fort Worth, Texas.

"We would appreciate being advised as to whether  
or not Mr. Pope is entitled to draw his \$5.80  
per day allowed for expenses for room and meals  
during the time he was away from his headquarters  
in Dallas, and to which he had not theretofore  
been ordered to return.

"The sum of \$3.80 per day was paid to the  
Cook Memorial Hospital at Fort Worth, Texas, as

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a part of his expenses for room and meals. Mr. Pope is not submitting any expense account for his bill at the hospital other than above mentioned. In the event you find this amount is due, could it be paid out of our current appropriations?"

The payment of "traveling expense" as allowed to the various officers, assistants, deputies, clerks and other employees in the various departments of the state government, out of any funds appropriated by the Legislature, is governed by the language of the general statute relating thereto.

Article 6823, R. C. S. of 1925, as amended, being the statutes referred to reads as follows:

"The traveling and other necessary expenses incurred by the various officers, assistants, deputies, clerks and other employees in the various departments, institutions, boards, commissions or other subdivisions of the State Government, in the active discharge of their duties shall be such as are specifically fixed and appropriated by the Legislature in the general appropriation bills providing for the expenses of the State Government from year to year...."

It will be noted that the above statute does not unqualifiedly authorize or allow traveling expense but contains words of limitation, which in effect, states "traveling and other necessary expenses incurred by the various officers....in the active discharge of their duties shall be such as are specifically fixed and appropriated...."

We find the following language used by the 44th Legislature in the general appropriation bill applicable, Section 2 thereof, the provisions of which are to be construed with the above statute:

"....(e) All employees traveling at the expense of the state, are hereby limited to

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the following amounts for meals and lodging; for meals not exceeding \$1.80 per day, for lodging not exceeding \$2.00 per night, for money actually expended only;....

"(f) The following rule shall be observed by all state employees in rendering their expense accounts before any expense shall be paid from appropriation herein made for 'traveling expenses':

"(1) There must be a concise statement of the duties performed....

"(2) The name of hotel, restaurant, boarding or rooming house in which meals and lodging are procured shall be given in every case where a receipt is required under the act...."

In connection with your request, our attention has been directed to a former opinion rendered by Hon. Leon Moses, Assistant Attorney General, directed to you under date of September 1, 1937, a copy of which you no doubt have in your files. It is apparent from the opinion of Mr. Moses, having the particular expense account submitted and before him at the time, that his conclusion was reached as a result of said expense account failing to disclose any duties performed or that during the period of confinement to the hospital Mr. Pope was not engaged in the actual discharge of his duties. We are forced to assume that the account was correctly submitted as you do not contend any error in same in your letter nor are any facts contained therein disclosing any duties being performed by Mr. Pope while being confined to the hospital.

It is therefore, the opinion of this department that Mr. Pope is not entitled to draw his \$3.80 per day

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incurred in 1937 for expenses for rooms and meals during the period of confinement in a hospital, not being engaged at the time in the active discharge of his duties.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

*Wm. J. King*  
Wm. J. King  
Assistant

WmK:AW

APPROVED SEP 1, 1939

*Gerard L. Mason*  
ATTORNEY GENERAL OF TEXAS

